



22 EAST MIFFLIN STREET, SUITE 900
MADISON, WI 53703
TOLL FREE: 1.866.404.2700
PHONE: 608.663.7188
FAX: 608.663.7189
www.wicounties.org

MEMORANDUM

TO: Honorable Members of the Senate Committee on Economic Development

FROM: Mark D. O'Connell, Executive Director

DATE: February 10, 2010

SUBJECT: Support for Senate Bill 399

In the midst of one of the country's deepest economic recessions, local governments and private businesses across the country are looking for financial resources and solutions to keep their communities growing. The Wisconsin Counties Association supports Senate Bill 399 and believes it will provide communities with another economic development tool by expanding access to capital in both the public and private sectors.

Under current law, Wisconsin local governments may issue federally tax-exempt municipal bonds for public purposes and conduit bonds for private projects that serve a public benefit. Additionally, unique financing opportunities have recently been made available for the use of these development tools through \$3.8 billion in Midwest Disaster Assistance Bonds and \$238 million in Recovery Zone Facility Bonds. However, these financing opportunities have a time limit that requires local governments to act quickly in order to promote needed development in their communities.

Only governmental entities may issue tax-exempt bonds. The process is complex, expensive, time-consuming, and requires a host of professional service providers. The process becomes even more complex when a governmental entity acts as a conduit issuer on behalf of a private borrower. For many local governments that are under increasing pressure to provide additional services with fewer resources, devoting staff and financial resources to complex bond issuances and the required post-issuance compliance is not feasible.

Senate Bill 399 authorizes the creation of a joint powers authority, or commission, which can act at the request of Wisconsin local governments to issue conduit bonds for private entities engaged in public benefit projects; issue municipal revenue bonds for public purposes; and, create market leverage through cooperative institutional relationships.

The creation of such a commission will provide local governments with a turn-key resource to evaluate public and private construction and infrastructure projects at the conceptual stage and shepherd eligible projects through the financing process - or refer them to WHEDA, WHEFA or the state Department of Commerce - saving individual local governments the financial burden of directly employing the necessary experts.

The commission would be patterned after the National Association of Counties joint purchasing program, which allows counties and other local governments to buy many goods and services at the lowest possible cost without having to bid or negotiate prices with vendors individually.

By streamlining issuance processes, creating efficiencies for local governmental issuers and reducing local governments' liability in conduit issuances, the commission will save local entities and eligible private borrowers millions of dollars and other valuable staff resources by providing a one-stop resource that coordinates complicated issuance and post-issuance activities. The commission would also:

- Offer local governments in Wisconsin another tool to promote economic development in their communities by growing existing businesses and offering new businesses access to the lower-cost municipal bond market.
- Create additional opportunities for private businesses to access low-cost, tax-exempt capital and increase the number of viable public benefit and public infrastructure projects.
- Create investment economies of scale for small public or private projects that may not otherwise have access to low-cost, tax-exempt bond markets due to their small size.
- Create construction jobs and permanent jobs associated with private expansions and relocations financed through municipal and conduit bonds.
- Generate savings for Wisconsin taxpayers by reducing the cost to local governments for necessary investments in public infrastructure projects.
- Enhance opportunities for Wisconsin's financial services industry by financing projects in Wisconsin and in other states.

The Wisconsin Counties Association, the League of Wisconsin Municipalities, the National Association of Counties and the National League of Cities believes support this legislation and believe it represents an important economic development tool for local governments around Wisconsin.

The Wisconsin Counties Association respectfully requests the Committee's support for SB 399. WCA also urges the committee to adopt Senate Amendment 1, which conforms bonds issued by the commission to the same tax-exempt status as similar bonds issued by WHEDA, WHEFA, and other local governmental entities by removing its state tax-exempt status and gives WHEDA and WHEFA the first "right-of-refusal" for every project brought to the commission that might fall within their respective purviews.

Frequently Asked Questions (FAQ) Senate Bill 399 and Assembly Bill 605: The Creation of a Joint Powers Authority

What is the purpose of the legislation?

Senate Bill 399 and Assembly Bill 605 authorizes a joint powers authority created by an intergovernmental agreement to conduct conduit tax-exempt and taxable bond financings for a variety of public benefit projects on a state and national basis.

The joint powers authority will simplify the complex process of coordinating certain types of private-activity financings and make it less expensive. It will also permit public agencies to pool together across state and local jurisdictional boundaries in certain types of financings and recognize significant investment economies of scale and cost savings that they could not enjoy on a standalone basis.

The creation of the joint powers authority will reduce the cost of public finance and increase the access of local communities to financing for public benefit economic development activities.

What changes to the statutes does the legislation make?

Wisconsin state statutes already provide local governments with broad intergovernmental powers, and such powers will provide the opportunity to create more economic development opportunities within Wisconsin. The proposed legislation does not expand what a Wisconsin local government can do, but provides clarity to allow local governments to act as a conduit bond issuer on a broader scope inside and outside of Wisconsin.

Wisconsin Statutes Section 66.0303 currently permits two or more government entities to join together and execute powers that are common among them. The legislation will clearly outline the ability to issue bonds within and outside of Wisconsin.

The proposed joint powers authority would have as its members two Wisconsin local governments and would be based in Wisconsin. The governing board would be made up of a majority of Wisconsin local governments.

Are there other joint powers authorities in Wisconsin?

Yes. There are numerous joint powers authorities in Wisconsin that vary considerably in terms of their complexity. On the "simple" end of the spectrum, there are joint powers authorities

whose purpose is limited to codifying a multi-jurisdictional mutual aid agreement. On the “complex” side, the Northshore Fire Department is a joint powers authority involving seven communities that have created a single fire department serving the area.

What are the advantages of creating a joint powers authority?

Because of the ability of the joint powers authority to pool resources, local governments in Wisconsin will no longer face the administrative and financial burdens associated with handling a project individually. This will open up the financing markets to industries (i.e. manufacturers, environmental, nonprofits, etc.) and public agencies that have not previously had access to the tax-exempt capital markets.

In addition, the rules governing tax exempt bond financing are designed to promote, among other things, alternative energy facilities – facilities that can be built in Wisconsin. Finally, there are many institutions that need to expand, but cannot afford expansion with limited access to the credit markets. A joint powers authority with pooled resources will be able to finance projects at a much more affordable rate than the private market or the current limited public market is able to offer.

What type of projects would be eligible for financing through the joint powers authority?

Tax-exempt financing would be available for eligible public works and public infrastructure projects and private entities engaging in projects that provide a public benefit. The guidelines for which private projects are eligible for tax-exempt financing are established by the Federal Government and state government, not the joint powers authority.

The joint powers authority would provide cost-effective access to capital for local governments and create manufacturing jobs, alternative energy projects, small business facility expansions, build/rebuild wastewater treatment plants, refinance eligible debt among many other public benefit projects.

Without the joint powers authority how do Wisconsin local governments access the tax-exempt markets?

Local government entities go to the private bond market on a standalone basis and engage private finance professionals for each transaction at a much higher cost to achieve the same goal.

The joint powers authority will save local entities and eligible borrowers millions in public dollars, and other valuable staff resources by providing a one-stop resource that coordinates complicated issuance and post-issuance activities.

Will the transparency and accountability standards that apply to Wisconsin public agencies apply to the joint powers authority?

The joint powers authority will be a public agency in the State of Wisconsin. Therefore, all transparency and accountability requirements for public agencies in the State will be applicable to the joint powers authority. The joint powers authority will be subject to review through federal, state and local agencies by the following:

Federal – The Internal Revenue Service oversees the rules and regulations of bond issues and post-issuance compliance in order to establish and maintain the bonds' tax exempt status.

State – Certain projects will be subject to a volume cap including but not limited to development projects and solid waste projects. These projects will be subject to the volume cap rules and regulations established by the State Department of Administration for projects in Wisconsin, and by parallel state systems for projects in other states.

Local – Every project will require a public hearing in the jurisdiction where the project resides. This local hearing and approval requirement is more fully described under the Tax Equity and Fiscal Responsibility Act ("TEFRA") of 1982. This will allow public input and project approval by the local jurisdiction.

For projects that are not subject to volume cap limitations, the joint powers authority will establish guidelines and criteria requiring an applicant to identify the public benefit associated with proceeding with a project.

Does a Wisconsin public agency or the State of Wisconsin incur any liability for participating in financings completed by the joint powers authority? Is a community's bond rating affected by the issuance of conduit bonds?

No. The bonds issued by the joint powers authority are limited obligations of the authority, payable only out of the payments received on a loan to the ultimate borrower, and are not payable by the State of Wisconsin, a Wisconsin public agency or a local government who acts as a conduit issuer. The State of Wisconsin and Wisconsin public agencies are not responsible for any repayment of debt of the joint powers authority or for payment of and loans to the ultimate borrowers, nor are they named in any of the bond documents.

Will it cost the State of Wisconsin or Wisconsin public agencies anything to become members of the joint powers authority?

No. Membership is strictly voluntary and there are no membership fees charged to public agencies to participate in the joint powers authority.

Why is the legislation national in its scope?

The national scope of the JPA is premised on a cooperative purchasing program offered by the National Association of Counties and the National League of Cities known as U.S. Communities. U.S. Communities provides public agencies with significant costs savings for various goods and services based upon the purchasing power of public agencies working together. Over 36,000 public agencies nationwide have entered into an intergovernmental agreement to cooperatively purchase commodities such as office supplies, office furniture, copiers and other items used by public agencies. The JPA is merely an expansion of this concept from commodities to services for financing and economic development opportunities.

The national scope will provide an economic tool for Wisconsin businesses that have multiple locations in other states. Instead of paying the costs to do separate financings in other states, one financing can be completed saving not only time but significant costs. This will allow public agencies to offer this tool to companies that may not have thought about tax-exempt financing because it would be too costly in multiple locations.

Created by local government, for local government, the national scope of the JPA would also lend assistance to local agencies in other states that recently received an allocation under various stimulus programs, including Midwestern Disaster Area Bonds. The notion of local agencies administering allocation is a completely new concept and many of those agencies no longer have the resources to facilitate either the issuance or post-issuance compliance process. A national JPA centered in Wisconsin would position the state as a leader in finding solutions for local communities to rebuild and recover difficult economic times, including areas in the Midwest that suffered from severe storms, tornados, and flooding.

What does it cost Wisconsin state government to create a joint powers authority?

Senate Amendment 1 removes state tax-exempt status from the joint powers authority. As a result, the bill will not require any new funding from state or local governments. It simply allows private businesses to gain access to lower-cost loans through the tax-exempt municipal bond market.

Will the commission compete with existing bond issuers?

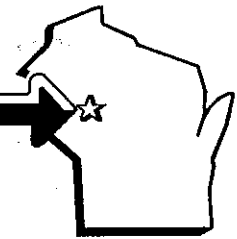
Senate Amendment 1 prevents the commission from competing for projects eligible for WHEDA or WHEFA financing. The amendment gives WHEDA and WHEFA the first right of refusal over any project that would fall within their agencies' purview. It is intended for the commission to complement, not compete, with the work of the two agencies.

Bruce G. Stelzner
HIGHWAY COMMISSIONER
801 E. GRAND AVENUE
CHIPPEWA FALLS, WISCONSIN 54729-2731

OFFICE: 715-726-7914
SHOP: 715-726-7915
FAX: 715-726-7918

CHIPPEWA COUNTY

Highway Department



February 9, 2010

To whom it may concern:

Among the many hats I wear, one of my responsibilities here in Chippewa County is to function as the administrator for the County owned Lake Wissota Business Park. That effort brings me to the table when economic development issues are being presented; those items include business development, business retention and recruitment.

Counties and local governments have a very limited toolbox to draw from for their economic development incentives. We're pretty much limited to small local revolving loan funds, Tech Zone Credits and to TIF/TID. The opportunity to increase that toolbox should not be overlooked, in fact in the Chippewa Valley we must compete with the incentives that are found next door in our neighboring state of Minnesota and the Twin Cities.

In Chippewa County we are currently working with a well established company that has a strong national representation in the high tech industry. In addition to production facilities here in Chippewa Falls they also have operations in Minnesota and on the West Coast. The company currently operates out of several outdated production facilities here in Chippewa Falls and in order to remain competitive must improve on that situation or move to one of their other out of state facilities. Their intention if possible is to expand their production operations and capacity here by building a new modern state of the art green type office and production facility. The company would hire additional engineers and production workers and move a portion of their other engineering staffing here from out of State.

What the company is proposing is a new facility located in an unimproved area of the community meaning that we need to provide land, infrastructure and incentives for the development to occur. This company is willing to cash fund \$20M of a \$56M new facility. Leaving the balance of \$36M on the table for discussion. Dollars are not only needed for the land & infrastructure but also to provide assistance in funding for the new facility. The Senate Bill under consideration puts one more tool to the toolbox and adds to the incentives that local government need when working on economic development issues.

My Best,

Bruce G. Stelzner
Chippewa County Highway Commissioner

TO: Senate Committee on Economic Development

FROM: Barbara A. Petkovsek
Adams County Administrative Coordinator

DATE: February 10, 2010

SUBJECT: Speaking in Support of Senate Bill 399

Thank you for holding a public hearing on Senate Bill 399. Adams County supports this bill which creates a Commission made up of local governments whose primary goal would be to assist local governments to OFFER AN ADDITIONAL ECONOMIC DEVELOPMENT TOOL LOCALLY, PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS and CREATE INVESTMENT ECONOMIES OF SCALE.

Senate Bill 399 authorizes the creation of a commission, which can act at the request of Wisconsin local governments including counties to issue conduit bonds for private entities engaged in public benefit projects; issue municipal revenue bonds for public purposes; and create market leverage through cooperative institutional relationships.

Many times small and medium sized counties do not have the specialized expertise to coordinate complicated bond issuance and post-issuance activities. This type of commission could provide one-stop resources to communities desiring to provide conduit bonding to grow existing businesses and offering new businesses access to the tax exempt bond. Adams County is one of the 30 counties that have been allocated \$50 million through the Midwest Disaster Assistance Bonds. These bonds have a time limit requiring local governments to act quickly in order access these dollars to maintain jobs, create jobs and build infrastructure which are all critical to economic recovery. While we see maps and get notice of more than \$3 billion available for these 30 counties, it is difficult if not impossible to figure out how to access those dollars. Daric Smith, our RIDC Executive Director says that the most difficult part of his job is trying to assist existing businesses and potential businesses with a financing component for their business plan.

Adams County has several projects ready to move forward with access to affordable financing.

- ACEC (Adams Columbia Electric Coop) has interest in working through a commission to use conduit bonding for infrastructure projects that meet the criteria of Midwest Disaster Assistance Bonds either allowing for additional

work or potentially maintaining billing rates. The commission would be a great tool for ACEC as they service 12 counties with several of those counties in the Midwest Disaster designation

- Mortenson Brothers potato farm are on the cusp of expansion and having the ability to possibly pool their project with other small projects to get great tax exempt rates through economies of scale will ensure growth of a local business whose product is 100% produced in Wisconsin and 90% processed in Wisconsin.
- Chula Vista, a major player in tourism in Wisconsin Dells/Adams County, has five projects that would create 900 jobs if they had access to financing.

These are specific examples of the private sector in Adams County that would likely utilize the expertise of a commission to access tax-exempt bonds thus maintaining and creating construction jobs and permanent jobs associated with private expansions.

In closing, Adams County supports SB399 along with Wisconsin Counties Association, the League of Wisconsin Municipalities, the National Association of Counties and the National League of Cities. It is the creation of such a commission that will provide local governments, particularly small counties such as Adams County with a turn-key resource to evaluate public and private construction and infrastructure projects at the conceptual stage and guide eligible project through the financing process saving individual local governments the cost of hiring necessary experts. This bill will provide options and opportunities in the financial environment for businesses to help grow Wisconsin across municipal, county and state lines.

We respectfully request the committee to support this vital legislation for our community.

Thank you.



Adams-Columbia Electric Cooperative

Adams-Columbia Electric Cooperative is a not-for-profit rural electric distribution cooperative headquartered in Adams County. Adams-Columbia's primary service area is located in the central Wisconsin counties of Adams, Marquette, Columbia and Waushara Counties and portions of Dodge, Green Lake, Wood, Sauk, Jefferson, Dane, Waupaca and Portage Counties. As of December 31, 2009, there were 32,391 members with 36,774 active electric services on our lines.

Adams-Columbia's 2010 capital budget includes construction and improvement projects just shy of \$7,000,000. These projects are to rebuild portions of our system for normal replacements (including road moves), additional capacity for increased loads and construction for new members and services. Budgeted projects range from \$2,600,000 for Adams County, \$1,400,000 for Waushara County, \$500,000 for Marquette County, and \$70,000 for Dodge County (where we have very little service territory). Projects in counties designated for Midwestern Disaster Area Bond Allocation total over \$5,000,000.

A proposed stimulus TIGER grant project for County Trunk Highway Z for Adams county improvements is not included in the \$2,600,000 previously mentioned. If the county is awarded the grant, Adams-Columbia will need to spend over \$2,000,000 to relocate our lines.

The ability for Adams-Columbia to utilize a commission for bond funding would enable us to bundle the financing for eligible counties. The bonding cost for individual bond issues by county or requesting the 12 counties to form intergovernmental agreements may be cost- and resource- prohibitive.

The capital budget for Adams-Columbia's electric distribution system ranges from \$7 to \$10 million per year. If available, we could use the bonding program for financing projects in 2011 and 2012. Currently, the rates available to us for long term financing are 7.6%. If financing the \$5,000,000 for the 2010 projects was at tax-exempt rates at 5.6%, this would save Adams-Columbia's members \$100,000 per year. If financing was available for the next 2 years and the 2% savings were similar, we could save each of the 36,000 plus electric services over \$8 per year or enable additional project work to be completed. As a not-for-profit cooperative, savings go directly to members, not to a non-resident stockholder.

The seventh cooperative principal is "Concern for Community". Adams-Columbia is dedicated to help development in the communities within our service territory. We have economic development lending programs to help develop businesses in our service territory to add employment opportunities. The unemployment rate in Adams County for December, 2009 is 11.7% and 10.5% in Marquette County. An additional avenue for funding economic development projects could help all local communities.

Thank you for the opportunity to comment.

Friendship Headquarters

401 E. Lake Street / P.O. Box 70
Friendship, WI 53934

Pardeeville Service Center

W6290 Hwy. 33 / P.O. Box 190
Pardeeville, WI 53954


Wautoma Service Center

N1519 Hwy. 22 / P.O. Box 900
Wautoma, WI 54982

CONTACT INFORMATION:
Customer Service & Billing
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Testimony Presented to
Committee on Economic Development
Regarding SB 399

Wednesday, February 10, 2010

SB 399 Comments from the Wisconsin Health & Educational Facilities
Authority

- 1) WHEFA – Who we are, what we do. No state money or state tax exemption.
- 2) Originally, SB 399 caused WHEFA much concern. Now amended, the bill addresses our main concerns.
 - No state tax exemption
 - Right of first refusal (local option alternative already in place)
- 3) WHEFA is proud to be a part of a great system which has been built to meet the infrastructure financing needs of our state.

Over the past 15 years –

- WHEFA - 55th largest issuer by \$, 6th by #
- Wisconsin – 24th
- WHEDA – 125th

WHEDA, WHEFA, Department of Commerce, state, local issuers –

If it can be financed on a tax-exempt basis (absent substantial controversy) it will be financed. If it can't be financed it must not qualify under federal laws and regulations or be a borrower whose credit is insufficient for capital market acceptance. With regard to Wisconsin, this bill is a solution in search of a problem.

- 4) However, not all states are as well equipped as Wisconsin. Many states don't have state level support, only local issuers. Many states don't have the legal or financial advisory assistance network that Wisconsin does.

I believe these commissions (and remember, there is no limit to the number of commissions which can be created) are a mechanism to be primarily used to finance out of state entities and projects.

Do you consider the financing needs of other states your issue, because that is where the support for and use of this legislation comes from, and where it will be primarily used.

Do you want Wisconsin commissions financing projects in all parts of our country that have financing options and assistance available in their own states?

Do you want to finance projects with possibly some controversy attached who chose a WI commission as a distant, more friendly issuer?

Do you want to finance projects to be built in other states that would otherwise possibly have been built here in Wisconsin with our existing strong financing support system?

- 5) In summary, the bill as amended should have limited impact on WHEFA's ability to continue providing service and capital access for our Wisconsin constituents.

This bill, as amended, may however have an impact on financing availability for projects in other states.

If this is your desire and goal, then proceed.